

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No.136 of 1988

in

SPECIAL CIVIL APPLICATION No.752 of 1988

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For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

and

MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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VANDNA PRAVINCHANDRA BHATT

Versus

UNION OF INDIA  
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Appearance:

MR RD RAVAL for Appellant

MR BB NAIK for Respondent No. 1, 2  
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CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE C.K.BUCH

Date of decision: 16/12/98

ORAL JUDGEMENT : (Per C.K. Buch, J.)

Feeling aggrieved by the order of the learned Single Judge passed in the above Special Civil Application, the appellant has preferred this Letters Patent Appeal. Learned counsel appearing for the petitioner has taken us through the facts on which the appellant/ petitioner relies and according to him, the

respondents have illegally and arbitrarily cancelled the agency of the appellant/ petitioner, which was given under the scheme framed by the Postal Department. On going through the averments of Special Civil Application and affidavit filed by the appellant/ petitioner and also the affidavit filed by the competent officer of the respondents in reply to the petition, it transpires that the dispute between the parties is mainly based on the agency contract.

2. At the time of dealing with the Special Civil Application, the learned Single Judge has considered all the relevant aspects. On perusal of the agreement, [Annexure 'A'], it is clear that the respondents were authorised to terminate the contract, i.e. licence and the learned Single Judge has referred relevant condition in the impugned order in para 2. We do not see any need to reproduce it again in our order. The learned Single Judge, in nutshell, has held that the dispute between the parties ultimately relates to the agreement say contract between them inter se. And the dispute raised by the petitioner, which arises out of the contract mainly touches the disputed question of fact and the same cannot be decided in a petition under Article 226 of the Constitution. The finding of the learned Single Judge is based on the established principles of law relating to writs and the Apex Court of this country has carved out this principle since years. We would like to refer to one of the judgments of the Apex Court in case of M/s Radhakrishna Agarwal and others v. State of Bihar and others, (reported in AIR 1977 SC 1496). The ratio established by the Apex Court, which is reflected in paragraphs 10 and 11 of the judgment squarely goes to the root of this matter also. We are not inclined, because of this established principle to allow this appeal. There is no apparent error in appreciating any question of fact or law committed by the learned Single Judge. The Appeal, therefore, requires to be dismissed.

3. During the course of submission, learned counsel appearing for the appellant/ petitioner, Shri Raval has submitted that the grounds mentioned in the show cause notice clearly reveal that none of the reasons assigned by the Postal Department can be said to be a serious allegation. The petitioner/ appellant is a handicapped lady and her husband is also a handicapped, who was helping her at the relevant time when she was getting work as agent from Vatva area of the city of Ahmedabad. On a query, the learned counsel has fairly conceded that the matter has become infructuous as the contract was for only for one year. But it is required to observe, in

fitness of things, that if this handicapped lady applies to the Postal Department for any agency under any scheme, which might be floated in future, termination of her agency in this very year should not be treated as any stigma or embargo and such application should be decided on merits. It is clarified that our above observation does not touch merit of the case and we uphold the finding of the learned Single Judge and dismiss this Letters Patent Appeal with no costs. Notice is discharged.

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